

UNITED STATES OF AMERICA ,

Plaintiff,

v.

JOHN A. BARNES,

Defendant.

V.

“[T]here is no ‘inherent authority’ for a district court to modify a sentence as it pleases; indeed a district court’s discretion to modify a sentence is an exception to the statute’s general rule that ‘the court may not modify a term of imprisonment once it has been imposed.’” *United States v. Cunningham*, 554 F.3d 703, 708 (7th Cir. 2009)(quoting 18 U.S.C. § 3582(c)). “When Congress granted district courts discretion to modify sentences in section 3582(c)(2), it explicitly incorporated the Sentencing Commission’s policy statements limiting reductions.” *Cunningham*, 554 F.2d at 708 (citation omitted). “Thus, the Commission’s policy statements should for all and intents and purposes be viewed as part of the statute.” *Cunningham*, 554 F.2d at 708. “The policy

statements make clear that section 3582(c)(2) proceedings are not full resentencings and may not result in a sentence lower than the amended guideline range (unless the defendant's original sentence was lower than the guideline range).” *Id.* (citing U.S.S. G. §§ 1B1.10(a)(3), 1B1.10(b)(2)(A)). “Indeed, mandatory minimum sentences-which cabin the district court's discretion with regard to section 3553(a) factors-have been upheld as constitutional.” *Cunningham*, 554 F.2d at 708 (citation omitted).

A review of the record, and application of §3582, reveals that the defendant was sentenced at a base offense level of 31 with a criminal history category of VI, resulting in a guideline range of 188-235 months. The amendments to the advisory guidelines would not, given his prior offense history, make him eligible for any relief under § 3582.

Accordingly, the Court **DENIES** defendant’s motion for a reduction in sentence (Doc. 55) because the defendant is not entitled to a reduction in his sentence pursuant to the relevant amendments to the Sentencing Guidelines. *See, United states v. Jackson*, 573 F.3d 398, 400 (7th Cir. 2009).

IT IS SO ORDERED.

DATE: 07 January, 2013

/s/ WILLIAM D. STIEHL
DISTRICT JUDGE